

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Industries and Commerce Department – Establishment of Semi Conductor Unit by M/s.Sem India Fab Private Limited – 100 acres of land allotted to M/s. SemIndia Fab Private Limited – Resumption of 78 acres of land by the Andhra Pradesh Industrial Infrastructure Corporation Limited (APIIC) from out of the 100 acres of land allotted to M/s.SemIndia Fab Private Limited – Permission accorded – Orders – Issued.

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INDUSTRIES AND COMMERCE (INF) DEPARTMENT

G.O.Ms.No. 9

Dated:09-02-2010

Read the following:-

- 1) G.O.Ms.No.94, Ind. & Com. (INF) Deptt., dated 28.4.2007.
- 2) G.O.Ms.No.231, Ind. & Com. (INF) Deptt., dated 22.8.2007.
- 3) From the G.M., M/s.Sem India Fab Pvt.Ltd., Letter No.S1/MD/015/2008/124, dated 4.12.2008.
- 4) From Fab City SPV, Letter No.6147/PM(IPU)/APIIC/2005, dated 2.7.2009.
- 5) From the Chairman & Managing Director, M/s.SemIndia Fab Pvt.Ltd., Letter No.SI/FC/2009, dated 18.7.2009.
- 6) From the Chairman & Managing Director, APIIC Ltd., Hyderabad, Letter No.6147/PM(IPU)/APIIC/2005, dated 12.8.2009.
- 7) From the Chairman & Managing Director, APIIC & Director, Fab City SPV, Letter No.6147/PM(IPU)/APIIC/2005, dated 16.12.2009.

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O R D E R:

The Government of Andhra Pradesh have entered into MoU on 16.2.2006 with M/s.SemIndia Inc., USA for the establishment of Assembling, Testing, Marking and Packing (ATMP), Semi Conductor Manufacturing Unit and Semi Conductor Plant in the Fab City, Hyderabad and to participate in the development of a Fab City as an Anchor Industry. The Government have issued orders in the G.O. 1st read above granting various incentives/concessions to M/s.SemIndia Fab Pvt.Ltd., in order to establish the said manufacturing facility. The Government have also set out the obligations arising out of the execution of MoU cast on SemIndia Limited and the Government of Andhra Pradesh.

2. As per the G.O., 1st read above, M/s. SemIndia Fab Private Limited shall fulfill the following obligations as set out by the Government.

(a) M/s. SemIndia Fab Private Limited shall establish or cause to be established the project in the Fab city, which shall house Fab(s) that over a period of five years shall have investments in the under noted range:

Phase-I – USD 75 Million for an assembling, testing, marketing and packing plant (ATMP) with an employment potential of 2,000 within 18 months from the date of allotment of land.

Phase – II – USD 750 million, Semiconductor Chip manufacturing with an employment potential of 1,000 within three years from the date of allotment of land.

Phase – III – USD 2.25 Billion for an advanced semiconductor plant with employment potential of 5,000 within 5-7 years from the date of allotment of land.

b) SemIndia Private Limited shall participate with APIIC in the Fabcity SPV which will develop State-of-the-Art infrastructure to house Fabs, fab related ecosystem.

3. The APIIC in the letter 6th read above, has informed Government that SemIndia Fab Private Limited has failed to implement the project within the time lines as stipulated in the G.O., and Lease Deed. APIIC has also informed that, even though a period of more than 2 years has lapsed from the date of execution of the Lease Deed, M/s. SemIndia Fab Private Limited has not made any substantial progress in the construction of the buildings for the project and only after several reminders, has started construction work in an area of less than 20 acres of land only, leaving the balance major portion of the land vacant and idle.

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4. The Chairman & Managing Director, APIIC has further informed that in reply to a notice issued by the APIIC on 17.11.08, M/s. SemIndia Fab Pvt. Ltd., in their letter, dt. 4.12.08 has stated that they have spent an amount of Rs. 25.00 crores for the building and Rs.30.00 crores for the utility as against the targeted investment of US\$ 75 million (Rs.375 crores) for Phase-I. Thus, admittedly, there is violation of terms and conditions of the orders issued by the Government in the G.O., 1st read above and the Lease Deed executed with the APIIC Ltd., and the same was not rectified in spite of intimations from the APIIC /Fab City SPV (India) Ltd.

5. The Fab City SPV has issued a notice in the reference 4th read above to M/s. SemIndia Fab Pvt. Ltd., to furnish valid reasons in writing within 15 days as to why the allotment of land should not be cancelled for non implementation of the project under the conditions of the orders issued by the Government and the Lease Deed within the stipulated time and the lease not terminated for the said reasons and if no valid reasons are shown, the allotment shall be cancelled without further notice.

6. In reply to the show-cause notice, M/s. SemIndia Fab Pvt. Ltd., in their letter 5th read above has informed that the construction work was slow down because of the changing the utility design lay out for the equipment purchased from Jurong and utilization of the time for the negotiations of the contractors for completing the balance of construction works in view of the present down trend. The SemIndia Fab Pvt. Ltd., has further informed that the recent financial crisis has impacted all major companies globally including the Semiconductor and Electronics Systems related companies and with this economic situation, it is rather a difficult for the new green field projects like SemIndia Fab Pvt. Ltd., to implement the projects as per the planned schedule.

7. The above matter was placed before the Board of Fab City SPV (India) Pvt. Ltd., for review and to take a decision. The Board of Fab City SPV (India) Pvt. Ltd., in its meeting held on 29.6.2009 has reviewed the progress of the SemIndia Fab Project in the Fab city and after discussions it was decided to withdraw 75 acres of land from out of 100 acres land allotted to SemIndia Fab duly following the procedure. The Chairman & Managing Director, APIIC in the reference 6th read above has requested the Government to accord permission to proceed with the resumption of 75 acres out of the allotted extent of 100 acres of land allotted as the SemIndia Fab Pvt. Ltd., has not done any progress in construction of buildings in the allotted land and the same position continues on ground with semi finished construction /shed in the land.

8. The Chairman & Managing Director, APIIC and Director, Fab City SPV India Ltd., in the letter 7th read above has further reported Government that the construction work taken up by SemIndia Fab Pvt. Ltd., in Plot No.11 of Fab City is measured and arrived at 22 acres out of the allotted extent of 100 acres. As such, the vacant area in plot No.11 works out to 78 acres. As the SemIndia Fab Pvt. Ltd., has violated the terms and conditions of the orders issued by the Government and the Lease Deed executed in the APIIC, it was proposed to resume 78 acres of land from the SemIndia Fab Pvt. Ltd. The Fab City SPV (India) Pvt. Ltd., has also proposed to regularize the due amount of Rs.2.24 crores incurred by SemIndia Fab Pvt. Ltd., towards initial development of Fab city as SemIndia loses its status of a Joint Venture or Anchor industry in the Fab city.

9. The Board of Fab City SPV (India) Pvt. Ltd., in its meeting held on 30.9.09 has reviewed the issue and decided to adjust the amount payable to SemIndia against the land retained with SemIndia Fab Pvt. Ltd. In view of the decision of the Board of Fab City SPV (India) Pvt. Ltd., the Chairman & Managing Director, APIIC and Director, Fab City SPV (India) Pvt. Ltd., has requested Government to issue orders on the following :

1. to retain 22 acres with SemIndia Fab Pvt. Ltd., fixing the lease premium payable.
2. to fix up the lease rentals at 2% per acre per annum on the land cost.
3. to accord permission to the APIIC to proceed with resumption of 78 acres out of the allotted extent of 100 acres duly cancelling the lease deed executed on 25.6.07 with SemIndia Fab Pvt. Ltd.

4. to fix up a deadline for implementation of the Phase-I project by SemIndia in the reduced extent of 22 acres by December, 2010.

10. It is clear from the above that M/s. SemIndia Fab Private Limited has not fulfilled any of the obligations as set out in the G.O., 1st read above in bringing the investments and creating employment under Phase-I, Phase-II and Phase-III respectively, and thereby violated the specific conditions of the G.O., 1st read above and the terms and conditions of the Lease Deed executed with APIIC on the implementation of Phase-I of SemIndia Fab project in the Fab City. The company has also not shown any progress in construction of buildings in the land allotted except semi finished construction /shed on the land allotted for the project and the same position continues on ground for the last several months which shows that the SemIndia Fab Pvt. Ltd., is not in a position to take up and complete the project as per schedule.

11. The Government after careful consideration of the decision of the Board of the Fab City SPV (India) Pvt. Ltd., and keeping in view of the violation of terms and conditions by the SemIndia Fab Pvt. Ltd., both in terms of Government orders and the Lease Deed executed with the APIIC, hereby cancel the G.Os., 1st and 2nd read above and withdrawn the incentives/concessions and other benefits as extended therein. The Government also hereby accord permission to the APIIC to take action on the following:

1. to retain 22 acres with SemIndia Fab Pvt. Ltd., i.e., the land actually occupied by the company, at a lease premium of Rs.20.00 lakhs per acre payable to the APIIC.
2. to fix up lease rentals at 2% per acre per annum on the land cost.
3. APIIC is accorded permission to proceed with resumption of 78 acres out of the allotted extent of 100 acres duly cancelling the lease deed executed with SemIndia Fab Pvt. Ltd.,
4. the SemIndia Fab Pvt. Ltd., shall implement the project as envisaged in the retained 22 acres of land by December, 2010 positively.

12. The Vice-Chairman & Managing Director, APIIC, is requested to take action accordingly.

[BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH]

B. SAM BOB
PRINCIPAL SECRETARY TO GOVERNMENT AND
COMMISSIONER FOR INDUSTRIAL PROMOTION

To
The Vice-Chairman & Managing Director,
A.P. Industrial Infrastructure Corporation Limited, Hyderabad.
The Chief Executive Officer, SemIndia Fab Private Limited,
H.No. 1-8-215/30/C, 3rd floor, Park Avenue colony,
PG Road, Secunderabad-500003.
The General Manager, (Admn),
SemIndia Fab Pvt. Ltd., H.No. 1-8-215/30/C, 3rd floor,
Park Avenue colony, PG Road, Secunderabad-500003.

Copy to:

The President & CEO, SemIndia Inc., 1900 University Ave.,
5th Floor, Polo Alto, CA 94303 USA.
The Principal Secretary to Chief Minister.
PS to Minister for Major Industries.
PS to Chief Secretary to Government.
PS to Principal Secretary to Government & CIP.,
Industries & Commerce Department.
SF/SC

// FORWARDED :: BY ORDER //

SECTION OFFICER